

SECTION 22A – RESOURCE EXTRACTION

PURPOSE AND OBJECTIVES

The extraction of natural resources has the potential to detrimentally effect the natural environment, public roads and surrounding uses, particularly residential uses. This section establishes regulations for extractive uses that provide protections for the natural environment, public roads and surrounding uses while allowing for the economical extraction of resources.

GENERAL REQUIREMENTS

1. Contiguous parcels that contain borrow pit sites that are either active or have not yet been restored, shall be combined for the purpose of determining the applicable area category, as listed below.
2. No borrow pit shall be permitted within 300 feet of a residence or 200 feet of a residential zone.
3. No borrow pit shall be located closer than 50 feet from any adjoining property under separate ownership or any public right-of-way.
4. No borrow pit shall be permitted within a designated 100-year floodplain without first obtaining a Floodplain Development Permit as specified in SECTION 9.
5. The owner and operator of the borrow pit shall be jointly responsible for compliance with the requirements of this SECTION 22A. Required licenses shall be issued to the operator of the respective borrow pit. Owners of the land shall receive a copy of the required license issued to the operator.
6. All borrow pits in existence at the time of adoption of these regulations shall comply with all provisions of this section within 30 days of adoption by the Board of County Commissioners with the following exceptions:
 - a. Borrow pits that have been abandoned at the time of adoption of these regulations shall not be subject to the requirements herein; and
 - b. All borrow pits in existence at the time of adoption for which an approved reclamation plan is on file with the State Conservation Commission shall not be required to prepare an additional reclamation plan, but shall submit a copy of the approved State reclamation plan with the license application. Performance bonds for reclamation shall not be required for any borrow pits in existence at the time of adoption of these regulations.
7. All quarries and mines in existence at the time of the adoption of this regulation (4-24-03) shall be exempt from all requirements of this section provided the operation the operation has been legally established as a permitted or conditional use.

BORROW PITS OF LESS THAN ONE (1) ACRE IN AREA

1. Borrow pits in this category shall be permitted in any zoning district and shall not be subject to any additional regulations other than those regulations that may be applicable within the zoning district in which it is located.

BORROW PITS OF BETWEEN ONE (1) AND FIVE (5) ACRES IN AREA

1. Borrow pits in this category shall be permitted in any zoning district except residential districts.
2. No borrow pits in this category shall be permitted without first obtaining a license to operate from the Planning & Development Department.
3. The operator shall renew the borrow pit license annually. All requirements for issuance of the original license shall be met in order for the license to be renewed.
4. Every application for a borrow pit license shall be accompanied by:
 - a. Legal description of the property;
 - b. A site plan, drawn to scale, illustrating:
 - 1) The boundary of the entire tract;
 - 2) Vehicular access routes and surfacing;
 - 3) The lateral extent and area, in acres, of the excavation;
 - 4) Distances from the lateral extent of the excavation to all property lines;
 - 5) The depth of the excavation;
 - 6) Existing topography
 - 7) Proposed topography following excavation and prior to restoration;
 - 8) Existing ground cover and location of any wooded area;
 - c. A Reclamation Plan that describes in sufficient detail how the licensee proposes to restore the excavated area to a condition of practical usefulness and reasonable physical attractiveness, as soon as practicable, after the operations have ceased. Such plan shall include a schedule for completion of operations and completion of reclamation and shall conform to the reclamation standards described in K.S.A 49-611 and State Conservation Commission Land Reclamation Program Administrative Regulations 11-8-7;

- d. Documentation that the licensee has complied with all applicable State and federal regulations including, but not limited to:
 - 1) The Surface Mining Land Conservation and Reclamation Act of 1994 administered by the State Conservation Commission; and
 - 2) The Federal Water Pollution Control Act “Clean Water Act” as amended and the Kansas Surface Water Quality Standards which established the National Pollutant Discharge Elimination System (NPDES) administered by the Kansas Department of Health and Environment.
- e. A plan describing what precautions and maintenance activities the licensee will undertake to prevent fugitive dust contamination from the site and from the principal access route to the site. The principal access route will be defined as the route of least distance between the furthest entrance to the property involved and a paved public highway approved by the County Engineer. The principal access route to be used will be designated by the County Engineer and may not be deviated from except upon prior written approval of the County Engineer. Fugitive dust contamination from the site and/or from the access road must be minimized by the application of an appropriate amount of either water or magnesium chloride at appropriate intervals. The Applicant shall describe in detail what methods they will use and at what intervals. The County Engineer shall determine if the proposed plan is adequate to alleviate any off-site impacts from fugitive dust contamination resulting from the operation;
- f. A plan for notifying and/or protecting the public from potential hazards;
- g. In the event that a performance bond for reclamation of the site is not required by the State as outlined in d. 1) above, the County shall require a bond in the amount of \$1500 per acre to ensure that the site is reclaimed as outlined in the Reclamation Plan; and
- h. A description of the expected impact of the operation on all township and County roads that could be affected by the activity. As a requirement for issuance of the license, the Applicant shall agree to reimburse the township or County, as appropriate, for any repair of damage to the principal access route due to ongoing truck traffic resulting from the operation and to bring the road to the condition that existed prior to the operation. The following procedure shall be used to determine the extent of the damage and to accomplish the appropriate reimbursement:
 - 1) The extent of reimbursement to be paid for the repair of damages resulting from the operation shall be determined by the County Engineer by conducting an assessment of the road conditions, in cooperation with the Applicant, prior to the activity commencing and following the completion of the activity or the development of significant road damage, whichever occurs first. Any funds collected from the Applicant for damages to the road shall be used solely to repair the damages caused by the operation and for no other purposes.

- 2) Upon receipt of any reimbursement funds, the Director of Planning and Development shall transfer such funds to the County Treasurer who shall be responsible for the placement of such funds in a segregated interest bearing account designated as the “Riley County Road Damages Account.” The County Treasurer shall establish adequate financial and accounting controls to ensure the reimbursement funds are distributed to the Riley County Road and Bridge fund in the case of damage to County roads, and to the proper township board of trustees, in the case of township roads, to be used solely and exclusively for the repair of the damaged roads. The repairs to the damaged roads shall be completed no later than 1 year after the damage occurs.
 - 3) The Applicant must provide financial assurances through a surety bond, performance bond, escrow deposit or letter of credit to ensure the availability of funds to cover the cost of repair of damage to the roads due to ongoing truck traffic resulting from the operation and to bring the road to the condition that existed prior to the operation proposed by the Applicant. The financial assurance mechanism must guarantee financial resources to Riley County sufficient to pay the cost of replacing the surface of the primary access route, as determined by the Riley County Engineer. Should the actual cost of repair be less than the financial assurance provided, the excess of the financial assurance over the cost of the repair will be returned to the Applicant. In lieu of financial assurances, the Applicant may elect to sign an agreement, running in favor of the County, that would require the Applicant to repair the road damages directly, using the Applicant’s resources, immediately upon notification by County. Failure to perform the repair immediately upon notification would result in the revocation of the license and the immediate discontinuance of the borrow pit operation.
 - 4) The Applicant shall have the right to appeal the decision of the County Engineer to the County Commissioners. The appeal shall be in writing and filed in the Office of the Riley County Clerk. A hearing will be scheduled subject to 14 days written notice to the Applicant, the County Engineer and the Riley County Counselor. A decision by the Board of Commissioners will be made no later than 60 days after the appeal request has been filed with the County Clerk.
5. The Board of County Commissioners shall establish the fee for annual licenses.
 6. Upon receipt of a valid application and license fee, the Planning & Development Department, for the initial application only, shall notify all property owners within 1000 feet of the expected activity.

BORROW PITS GREATER THAN FIVE (5) ACRES IN AREA

All borrow pits in this category shall be subject to the same requirements as listed above with the following exceptions:

1. Borrow pits of this size are only allowed as a permitted use in the D-3 (Heavy Industrial District); and
2. Borrow pits of this size located in a G-1 (General Agricultural District) shall require conditional use approval by the Board of Zoning Appeals.

QUARRYING AND MINING

All quarries and mines shall be subject to the same requirements for large (greater than 5 acres) borrow pits, as outlined above. In considering a Conditional Use for a quarry or mine, the Board of Zoning Appeals shall also consider the effect of the operation on the principal access to the site and shall consider requiring maintenance and/or improvement of the access road in proportion to the impact created by the operation.